

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

**NEW YORK LIFE INSURANCE
AND ANNUITY CORPORATION,**

Plaintiff,

Case No.: 4:21-cv-490-O

v.

**Barbara Brown Family Trust DTD 3/12/2010;
Barbara Jean Brown Living Trust DTD 3/12/2010;
Sharon Kay Britton and Ken Britton, as co-Trustees of the
Barbara Jean Brown Family Trust DTD 3/12/2010;
Barbara Jean Brown Living Trust DTD 5/29/2018; Bob Shelton,
as Trustee of Barbara Jean Brown Living Trust DTD 5/29/2018,**

Defendants.

**ATTORNEY DECLARATION IN SUPPORT OF PLAINTIFF'S MOTION FOR
INTERPLEADER RELIEF AND ATTORNEYS' FEES**

Linda G. Moore, an attorney duly licensed to practice law in the State of Texas, declares under the penalty of perjury as follows:

1. I am an attorney at the law firm of Estes Thorne & Carr PLLC in Dallas, Texas (“Estes Thorne & Carr”) local Texas counsel for New York Life Insurance and Annuity Corporation (“NYLIAC”). On behalf of NYLIAC, NYLIAC’s national counsel, d’Arcambal Ousley & Cuyler Burk LLP, engaged Estes Thorne & Carr to act as local counsel for NYLIAC in the above action. I make this Declaration on the basis of personal knowledge of the matters set forth herein, and I am competent to testify to the same.

2. I am familiar with the file in this action and the pleadings and other papers filed herein. This Declaration is submitted in support of NYLIAC'S Motion for Interpleader Relief to be dismissed from the action and recover its attorneys' fees and costs in this action.

3. I am familiar with the timekeeping records kept and maintained by Estes Thorne & Carr attorneys and paralegals with respect to the time expended and tasks performed by the Estes Thorne & Carr attorneys and paralegals on the firm's client matters. Estes Thorne & Carr keeps these timekeeping records in the course of a regularly conducted business activity, and it is the regular practice of this law firm to keep such business records. All such records are made at or near the time of the act or events described in them, by or from information transmitted by a person with knowledge.

4. I follow Estes Thorne & Carr's timekeeping procedures, which require attorneys and paralegals to record their time on a daily basis. I personally enter my time into a computerized time-keeping program, which keeps track of my time entries. I keep track of my time during the day as I perform tasks for each client matter on which I work that day. At the end of the month, an invoice is generated by Estes Thorne & Carr's accountant. These invoices are reviewed by the billing partners, and once they have been verified for accuracy and completeness, the invoices are then sent to the client for payment.

5. I am familiar with the timekeeping records kept and maintained by Estes Thorne & Carr with respect to the time expended and tasks performed by the Estes Thorne & Carr attorneys and paralegals in this case. During the time I have been representing NYLIAC in this matter, all of my own timekeeping records were kept and maintained in accordance with the above-described process, as were the time records of all other attorneys and/or paralegals who

worked on this matter. I have personally reviewed all of the time records relating to NYLIAC's representation throughout this litigation.

6. NYLIAC has incurred legal fees in connection with pursuing its rights and remedies herein as a neutral stakeholder and properly interpleading party. I certify that the fees for the legal services Estes Thorne & Carr has provided to NYLIAC during the course of this lawsuit from April 6, 2021 through July 12, 2021 amount to \$2,832.00, and NYLIAC's costs, including Court fees of \$400, amount to \$3,232.

7. Attached hereto are true and correct copies of the firm's invoices reflecting the time incurred by me and a paralegal in this matter, and to assist the Court in determining appropriate or reasonable interpleader fees and costs in light of the amount of the interpleader funds and the legal services required.

8. The charges for the attorneys and paralegals appearing in the itemization are hourly rates negotiated with this client for its Interpleader litigation. In certain instances in this matter, time actually incurred has been reduced by me as believed appropriate in relation to the amount in controversy and complexity of the particular service performed.

9. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNED: July 12, 2021.



Linda G. Moore
State Bar No. 14359500

*Attorney for Plaintiff New York Life Insurance and
Annuity Corporation*

ESTES
THORNE
& CARR

Estes Thorne & Carr, PLLC
3811 Turtle Creek Blvd., Suite 2000
Dallas, TX 75219
(214) 599-4000
Tax Identification No. 26-1675644

April 30, 2021

Invoice submitted to:

New York Life
Grace Pyun
gpyun@darcambal.com
Rob Tallia
rtallia@darcambal.com

RE:

Client Matter Barbara Jean Brown Interpleader

Bill No: 30504

Invoice Period: 04/01/2021 - 04/30/2021

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
04/06/2021	LGM	Review the Complaint and all exhibits and prepare notes regarding the Plaintiff	1.00 240.00 /hr	240.00
04/06/2021	LGM	Emails with G. Pyun regarding the Summons	0.10 240.00 /hr	24.00
04/06/2021	LGM	Draft Motion to Withdraw and to Substitute Counsel	0.40 240.00 /hr	96.00
04/06/2021	LGM	Review case law of Plaintiff G. Pyun	0.20 240.00 /hr	48.00
04/07/2021	LGM	Emails with G. Pyun regarding the Summons and of Plaintiff and have Summons prepared	0.20 240.00 /hr	48.00
04/07/2021	LGM	Prepare Order granting Motion to Substitute	0.20 240.00 /hr	48.00

Client Matter Barbara Jean Brown Interpleader

Bill No: 30504

04/08/2021	LGM	Review Order granting Motion to Substitute and Summons issued by the clerk to confirm correct, and email to G. Pyun with the Order and Summons	0.10 240.00 /hr	24.00
04/19/2021	LGM	Review waivers of service and return of service and confirm answer dates for defendants.	0.10 240.00 /hr	24.00
04/19/2021	TEH	Calculate and docket deadlines for Defendants to Answer.	0.10 240.00 /hr	24.00
04/30/2021	LGM	Review Motion to Deposit and proposed Order from G. Pyun and revise the proposed Order.	0.30 240.00 /hr	72.00
04/30/2021	LGM	Email to G. Pyun regarding the revised Order and proposed revisions to the Motion to Deposit.	0.10 240.00 /hr	24.00
For professional services rendered				\$672.00

ESTES
 THORNE
 & CARR

Estes Thorne & Carr, PLLC
 3811 Turtle Creek Blvd., Suite 2000
 Dallas, TX 75219
 (214) 599-4000
 Tax Identification No. 26-1675644

May 31, 2021

Invoice submitted to:

New York Life
 Grace Pyun
 gpyun@darcambal.com
 Rob Tallia
 rtallia@darcambal.com

RE:

Client Matter Barbara Jean Brown Interpleader

Bill No: 30759

Invoice Period: 05/01/2021 - 05/31/2021

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
05/03/2021	LGM	Review and revise the Motion to Deposit and emails with G. Pyun regarding the revisions to the Motion	0.20 240.00 /hr	48.00
05/04/2021	LGM	Review the Order granting New York Life's Motion to Deposit and email to G. Pyun with the Order and payment information.	0.10 240.00 /hr	24.00
05/10/2021	LGM	Review the Answer and Certificate of Interested Parties filed by Bob Shelton, Trustee	0.10 240.00 /hr	24.00
05/11/2021	LGM	Review the Court's Order Requiring Scheduling Conference and Report for Scheduling Order, review the deadlines in the Order, and emails to G. Pyun with the Order and deadlines	0.20 240.00 /hr	48.00
05/11/2021	TEH	Calculate and docket deadlines within Court's Order for Joint Report.	0.10 240.00 /hr	24.00
05/19/2021	LGM	Telephone conference with attorney Harvey Joseph regarding the conference ordered by the Court	0.10 240.00 /hr	24.00

Client Matter Barbara Jean Brown Interpleader

Bill No: 30759

05/19/2021	LGM	Review the Order for Conference and email to G. Pyun regarding the required conference and the contact information for the other trustees	0.20 240.00 /hr	48.00
05/20/2021	LGM	Telephone conference with G. Pyun regarding the issues as to the other trustees	0.30 240.00 /hr	72.00
05/20/2021	LGM	Prepare the Court's form for the Joint Report to discuss at the conference with the claimants and New York Life's statement of its claim	1.10 240.00 /hr	264.00
05/20/2021	LGM	Emails with Sharon and Ken Britton regarding the required conference and the Court's Order as to the conference	0.20 240.00 /hr	48.00
05/20/2021	LGM	Additional revisions to and review of the draft joint report	0.10 240.00 /hr	24.00
05/20/2021	LGM	Locate and review Declaration to prove up attorneys' fees and costs in an interpleader action and email to G. Pyun with the draft Joint Report and the Declaration.	0.30 240.00 /hr	72.00
05/21/2021	LGM	Email to H. Joseph and Mr. and Mrs. Britton regarding the Joint Report to the Court	0.10 240.00 /hr	24.00
05/24/2021	LGM	Review notes regarding the trusts and prepare for Rule 26(f) conference with H. Joseph and the Brittons	0.30 240.00 /hr	72.00
05/24/2021	LGM	Conduct Rule 26(f) conference with H. Joseph and the Brittons	1.00 240.00 /hr	240.00
05/24/2021	LGM	Insert the Brittons' statement into the Joint Report	0.10 240.00 /hr	24.00
05/25/2021	LGM	Review email and draft of Joint Report from H. Joseph and respond to the email	0.10 240.00 /hr	24.00

Client Matter Barbara Jean Brown Interpleader
 Bill No: 30759

05/25/2021	LGM	Review Court's , and email to G. Pyun regarding t	0.50 240.00 /hr	120.00
05/26/2021	LGM	Review the Joint Report from H. Joseph, revise the Joint Report to add the statements of NYLIAC and the Brittons, and email to G. Pyun with the draft Joint Report	0.20 240.00 /hr	48.00
For professional services rendered				\$1,272.00

Total amount of this bill **\$1,272.00**

Previous balance **\$672.00**

Accounts Receivable Transactions

Total payments and adjustments **0.00**

Balance due **\$1,944.00**

Timekeeper Summary

Name	Hours	Rate	Amount
Linda Moore	5.20	\$240.00	\$1,248.00
Tammy Hintz Goodson	0.10	\$240.00	\$24.00
	5.30		\$1,272.00

ESTES
 THORNE
 & CARR

Estes Thorne & Carr, PLLC
 3811 Turtle Creek Blvd., Suite 2000
 Dallas, TX 75219
 (214) 599-4000
 Tax Identification No. 26-1675644

June 30, 2021

Invoice submitted to:

New York Life
 Grace Pyun
 gpyun@darcambal.com
 Rob Tallia
 rtallia@darcambal.com

RE:

Client Matter Barbara Jean Brown Interpleader

Bill No: 31034

Invoice Period: 06/01/2021 - 06/30/2021

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
06/02/2021	LGM	Review the Answer filed by Sharon and Ken Britton and email to G. Pyun with the Answer.	0.10 240.00 /hr	24.00
06/02/2021	LGM	Review email from G. Pyun and respond to G. Pyun's email.	0.10 240.00 /hr	24.00
06/02/2021	LGM	Prepare settlement demand letter and email to H. Joseph.	0.10 240.00 /hr	24.00
06/04/2021	LGM	Review email from G. Pyun and	0.10 240.00 /hr	24.00
06/04/2021	LGM	Email to H. Joseph and the Brittons regarding the Joint Report and the revisions to the Report	0.10 240.00 /hr	24.00
06/07/2021	LGM	Review the Amended Answer filed by the Brittons	0.10 240.00 /hr	24.00

Client Matter Barbara Jean Brown Interpleader
 Bill No: 31034

06/08/2021	LGM	Review proposed Joint Report and emails to Ken and Sharon Britton and H. Joseph with the report	0.10 240.00 /hr	24.00
06/08/2021	LGM	Review email from H. Joseph with a revision to the Joint Report, make the revision and have the Joint Report put in final form	0.30 240.00 /hr	72.00
06/08/2021	LGM	Emails and telephone conference with S. Britton regarding the Joint Report	0.10 240.00 /hr	24.00
06/09/2021	TEH	Docket deadlines in the Court's Scheduling Order	0.50 240.00 /hr	120.00
06/14/2021	LGM	Telephone conference with H. Josephs regarding NYLIAC's settlement proposal and B. Shelton's response	0.20 240.00 /hr	48.00
06/22/2021	LGM	Review Disclosures from G. Pyun and emails with G. Pyun	0.10 240.00 /hr	24.00
06/25/2021	LGM	Review NYLIAC's Disclosures, prepare the Disclosures for service on the other parties, and email to the Brittons and H. Joseph with NYLIAC's Disclosures and requesting an expected deadline for their Disclosures	0.30 240.00 /hr	72.00
06/28/2021	LGM	Review email from Ken and Sharon Britton; telephone conference with H. Joseph regarding his attempts to get his client to settle and requesting an extension for B. Shelton's disclosures; and emails with G. Pyun regarding	0.20 240.00 /hr	48.00
06/29/2021	LGM	Review and revise Declaration supporting claim for attorney's fees and emails with G. Pyun regarding	0.20 240.00 /hr	48.00
06/30/2021	LGM	Review B. Shelton's Disclosures and email to G. Pyun with the Disclosures.	0.10 240.00 /hr	24.00
For professional services rendered				\$648.00